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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact: _____, ID No. _____

Telephone Number:

Refer Reply To:
CC:PSI:B2
PLR-139011-12
Date: March 7, 2013

X =

State =

Y =A =B =D1 =D2 =D3 =D4 =D5 =

Dear

This responds to a letter dated August 29, 2012, and subsequent correspondence, submitted on behalf of X by X's authorized representative, requesting relief under § 1362(f) of the Internal Revenue Code.

The information submitted states that X was formed as a Limited Liability Company under the laws of State on D1 and elected to be an S corporation effective D2. In D3, X issued interests to Y, an ineligible S corporation shareholder for federal income tax purposes. Therefore, X's S corporation election terminated in D3. About D4, X learned of the termination of X's S corporation election due to the transfer of X interests to an ineligible shareholder for federal income tax purposes. In D5, steps were taken so that X again became a small business corporation owned solely by A and B consistent with their X ownership prior to the D3 transfer of X interests to Y.

X represents that the circumstances resulting in X's invalid S corporation election were inadvertent and not motivated by tax avoidance or retroactive tax planning. X further represents that X has filed returns consistent with X's status as an S corporation. X and its shareholders have agreed to make such adjustments (consistent with the treatment of X as an S corporation) as may be required by the Secretary.

Section 1362(f) provides that if (1) an election under § 1362(a) by any corporation (A) was not effective for the taxable year for which it was made (determined without regard to § 1362(b)(2)) by reason of a failure to meet the requirements of § 1361(b) or to obtain shareholder consents, or (B) was terminated under § 1362(d)(2) or (3), (2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent, (3) no later than a reasonable period of time after discovery of the event resulting in the ineffectiveness or termination, steps were taken (A) so that the corporation is a small business corporation, or (B) to acquire the required shareholder consents, and (4) the corporation, and each person who was a shareholder of the corporation at any time during the period specified pursuant to § 1362(f), agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period, then, notwithstanding the circumstances resulting in such ineffectiveness or termination, the corporation shall be treated as an S corporation during the period specified by the Secretary.

Based solely on the facts submitted and the representations made, we conclude that X's S corporation election was terminated on D3 because Y was not an eligible shareholder of X. We also conclude that the termination of X's S election in D3 was inadvertent within the meaning of § 1362(f). Therefore, we conclude that X will be treated as an S corporation from D3 and thereafter, provided that X's S corporation election was otherwise valid and was not otherwise terminated under § 1362(d).

This ruling is conditioned upon the shareholders of X including in income their pro rata share of the separately stated and nonseparately computed items of X as provided in § 1366, making any adjustments to basis as provided in § 1367, and taking into account any distributions made by X as provided by § 1368.

Except as specifically set forth above, no opinion is expressed or implied concerning the federal tax consequences of the facts described above under any other provision of the Code. Specifically, no opinion is expressed regarding X's eligibility to be an S corporation.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to X's authorized representative.

Sincerely,

Charlotte Chyr
Senior Technician Reviewer, Branch 2
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes